The Commission should take this opportunity to announce that the "learning phase" of EEO regulation has ended, and the strict compliance phase has begun. Broadcast or cable EEO violations seldom, if ever, occur unintentionally. For over 20 years, broadcasters and cablecasters have been on notice of the EEO rules. Broadcasters have filed annual employment reports since 1971, cablecasters since 1975. They cannot claim to be ignorant about the racial compositions of their own staffs. No broadcaster can be unaware of the Commission's heightened level of review of its licensees' EEO performance under Bilingual II in the past five years. See Broadcast EEO, supra.

The time has therefore come for the Commission to announce that it will no longer entertain defenses of ignorance of the law and ignorance of how one's self-evident conduct might be violating the law. It is time to recognize that EEO violations are almost always intentional violations implicating the licensee's character. Black Broadcasting Coalition of Richmond v. FCC, 556 F.2d 59 (D.C. Cir. 1977) ("Black Broadcasting Coalition").

Character is implicated because an EEO violation can seldom, if ever occur without the participation and consent of a station's or cable system's owner or its general manager. Thus, a licensee's or franchisee's deliberate representation of itself to the Commission, the public, and job-seekers as an equal opportunity and affirmative action employer when it is not such an employer is simply not candid. In Commission-ese, it is a "misrepresentation" going directly to the licensee's or franchisee's character. FCC v. WOKO, 329 U.S. 223, 227 (1946); RKO General, Inc. v. FCC, 670 F.2d 231, 233 (1981); Pass Word, Inc., 76 FCC2d 465 (1980); WMOZ, Inc., 36 FCC 202, 237-239 (1964).

F. Refusal to Infer EEO Noncompliance from Licensee Nonresponsiveness

Nonresponsive answers to Form 396, to a petition to deny, or to a Bilingual letter, should be read as an indication that no compliance efforts occurred through the conscious choice of the licensee or franchisee. Any prudent, EEO-complying applicant would have answered Form 396, a petition or a Bilingual letter responsively.

The inference of noncompliance from nonresponsiveness is fundamental in any regulatory scheme. See McCormick on Evidence §2272 (1984) ("if a party has it peculiarly in its power to produce witnesses whose testimony would eludicate the transaction, the fact that it does not do it creates the presumption that the testimony, if produced, would be unfavorable"), quoted in Washoe Shoshone Broadcasting, 3 FCC Rcd 3948, 3953 (Rev. Bd.), recon denied, 3 FCC Rcd 5631 (Rev. Bd. 1988), affirmed, 5 FCC Rcd 5561 (1990); see also C. Wright and K. Graham, Federal Practice and Procedure §5124 at 587 (1977) (it is reasonable to infer that "evidence not produced would be adverse to the party with peculiar access to the evidence"), quoted in Voce Intersectario Verdad America, Inc., 100 FCC2d 1607, 1613 (Rev. Bd. 1985). The Commission need not await the rare applicant whose Form 396 narrative explicitly states that it does not obey the EEO rules. See Rust Communications Group, Inc., 53 FCC2d 355 (1975) ("Rust"). Where, as often happens, an applicant offers nothing on Section VIII of Form 396, or ignores an allegation in a petition to deny or Bilingual letter, deliberate noncompliance must be inferred.

G. Over-Narrow Focus on Recruitment

The EEO rules cover recruitment, employee selection, working conditions, compensation, transfers, promotions, training, discipline, termination, and in the case of cable also cover the purchase of goods and services. However, the Commission's EEO enforcement program has focused almost exclusively on recruitment. For example, the Commission never reviews data on employee selection -- which could reveal discrimination -- unless Form 396 reveals deficiencies in an entirely different area, recruitment.

This regulatory practice has the effect of relieving from EEO scrutiny the most common form of discriminator: the licensee or franchisee which is careful to send job notices to minority groups, but which deliberately and discreetly fails to hire minorities. Indeed, the only licensees or franchisees which get caught at hiring discrimination tend to be those too stupid or unsophisticated to conceal their discriminatory hiring practices behind EEO-friendly paper recruitment practices. For example, in Columbus, Ohio Renewals, 7 FCC Rcd 6355, 6359 ¶25 (1992) ("Columbus") the Commission held that a licensee -- even when under the enhanced scrutiny of a petition to deny and reporting conditions -- was immunized from hearing albeit it had hired no minority applicants. It was enough that the minorities applied:

> We note that, although the licensee did not hire minorities during the time it was not subject to reporting conditions, its efforts attracted several minority applicants. We, therefore, find no evidence that the licensee engages in discrimination.

That holding is far outside the mainstream of civil rights jurisprudence. It has been repeatedly rejected in EEO cases. See, eg., Texas Department of Community Affairs v. Burdine, 450 U.S. 248 (1981). On Columbus' theory, a hotel with 100 Black tourists standing in line could give all of its rooms to Whites but escape Title II review because its advertising had attracted the Black tourists. See Katzenbach v. McClung, 379 U.S. 294 (1964) and Heart of Atlanta Motel, Inc. v. U.S., 379 U.S. 241 (1964). A school district which segregates Black children would be excused from Title VI review because Black children attend its school system. See Lau v. Nichols, 414 U.S. 563 (1974). A municipality would be excused from compliance with the Voting Rights Act's prohibition against racial gerrymandering because it registers Blacks to vote. See Gomillion v. Lightfoot, 364 U.S. 339 (1960).

Recruitment efforts might theoretically have some weight in showing that a licensee obeyed 47 CFR §73.2080(c)(2) or that a franchisee obeyed 47 CFR §76.75(b). However, the Commission should hold that recruitment efforts -- especially paper recruitment ministerially conducted without personal contact with minority groups -- will not immunize licensees from sanctions for noncompliance with 47 CFR §§73.2080(c)(3) and (c)(5) (which aim at selection and hiring procedures) and 47 CFR §73.2080(a) (nondiscrimination), and will not immunize franchisees from sanctions for noncompliance with the parallel rules 47 CFR §76.75(d)(1) (selection and hiring) and 47 CFR §76.73(a) (nondiscrimination).

An all-too-common example of the Commission's narrow focus on recruitment is found in cases in which the Commission has refused to consider allegations that minorities are segregated into only certain types of jobs, to the exclusion of others. Carolina Radio of Durham, 74 FCC2d 571 (1979) (Blacks not hired as officials and managers; licensee gently urged to conduct job structure analysis); Field Communications Corp., 68 FCC2d 817 (1978) (minorities concentrated in profressional and technical jobs, excluded from management and sales; licensee gently admonished); Independence Broadcasting Co., 53 FCC2d 1162, 1166 (1975) ("Independence") (Blacks steered only to positions in Black formatted AM in AM/FM combination; conditional renewal issued). The practice is referred to as "ghettoization." Cable EEO, supra, 58 RR2d at 1588 n. 32. One very likely reason for job segregation or exclusion is that the licensee or franchisee does not consider these types of positions appropriate for minorities. See Rust, supra, in which the Commission found a prima facie case of discrimination where the only Black employee was denoted the "maintenance supervisor" but was really the janitor, and the licensee's purported EEO program characterized only certain types of jobs as "suitable" or "feasible" for minority applicants.

Discrimination in job placement and assignment is a serious matter. It is no answer to such an allegation that the licensee or franchisee recruits minorities. By that standard, every antebellum plantation owner would have passed muster on the EEO rules. They not only recruited Blacks, they imported them.

H. Refusal to Designate EEO Cases for Hearing

The Commission has never declared publicly that violations of the EEO rules -- standing alone, and without evidence of misrepresentation -- will be cause for designation for hearing. Its institutional reluctance to cross the hearing barrier is not a new phenomenon. Twenty years ago, the FCC only issued a short term renewal to a university licensee which discriminated against Black students as matter of official policy. Bob Jones University, 32 FCC2d 70 (1973). Even the IRS, not known as an enforcer of social contracts, has been more bold in addressing school segregation. Bob Jones University v. U.S., 103 S.Ct 2017 (1983).

That policy continues today. In a recent case, the reason the Commission gave for not holding a hearing on a licensee which had hired no minorities for all 58 vacancies in the license term was that there was no evidence of discriminatory terminations. WLVU, supra at 2 ¶¶3, 11.

Every EEO issue designated by the Commission since 1977 has been an afterthought to an issue going to misrepresentation occurring in connection with Form 395 or Form 396. Dixie Broadcasting, 7 FCC Rcd 5638 (1992); WXMB-FM, Inc., supra; Albany Radio, Inc., 97 FCC2d 519 (1984); Metroplex Communications of Florida, Inc., 96 FCC2d 1090 (1984). In each of these cases, EEO issues were added, almost as an afterthought, to be heard along with allegations that the licensees made misrepresentations which happened to involve EEO. Taken together, these cases have sent the unfortunate message that as long as a licensee or franchisee tells the truth, it can keep, and transfer, its most valuable asset.

The changing, deregulated face of the industry requires that the Commission now decide that blatant, long term EEO noncompliance, even without incontrovertible proof of discrimination or misrepresentation, does require a hearing.18/

VII. WEAKNESSES OF SANCTIONS

A. Absence of Progressive Discipline

Even four license terms of EEO noncompliance, including one with drew sanctions have not been cause for any meaningful sanctions. Columbus, supra, 7 FCC Rcd at 6358-6359 ¶¶21-27. Because the license renewal terms for radio and television stations were extended in 1982 to seven and five years respectively, "progressive discipline" typically requires a generation -- if it ever happens. With most TV and radio stations being sold every several years, the discriminator is usually never caught. To remedy this, the Commission should announce a policy that EEO recidivists will automatically be deemed poor compliance risks and designated for hearing.

18/ That is not as punitive a step as might be thought. Licensees or franchisees in hearing may escape through the route of a distress sale, and the NAACP and other civil rights organizations have asked the Commission to liberalize the distress sale policy to allow distress sales at further reduced prices throughout the hearing process. NAACP et al. Petition for Rulemaking on Minority Ownership, filed September 18, 1990 (no §1.403 rulemaking number yet assigned; petition for writ of mandamus hopefully not necessary).

B. Failure to Define an EEO Violation

The Commission has never defined what is a "violation" for the purpose of the application of EEO forfeitures. It is unclear whether a violation is an entire license term of EEO misconduct, a single calendar day of EEO misconduct, or something in between.

Regrettably, the Commission's EEO decisions have referred to the standard $12,500 broadcast EEO forfeiture as though a single violation takes five or seven years to commit. See, eg., Lewis Broadcasting Corp., 7 FCC Rcd 1420, 1422 ¶17 (1992). No other type of FCC rule violation is so narrowly or speciously construed. This practice directly contradicts the Forfeiture Policy Statement, supra, 6 FCC Rcd at 4695 ¶6.

The Forfeiture Policy Statement lists forfeitures attendant to "each violation or each day of a continuing violation." Id., 7 FCC Rcd at 4695 ¶3. In ¶6 of the Forfeiture Policy Statement, the Commission provides an example of a licensee who broadcasts with unauthorized equipment for one day. That broadcaster would be subject to a base forfeiture amount of $10,000 before adjustment.

Most of the violations the Commission apparently deems to be of comparable gravity to EEO violations (excessive power levels, unauthorized emissions, using an unauthorized frequency, EBS equipment not installed or operational, transmission of indecent/obscene material, violation of the political rules) lend themselves well to the logic of ¶6 of the Forfeiture Policy Statement. For example, a single indecent broadcast, a single political advertisement (presumably encompassing repeat broadcasts within that single incident), or a day of operation at excessive power could rationally justify a base forfeiture of $12,500.

However, it would be illogical to define a single violation involving political advertising or obscene programming to be one broadcast, but to define a single EEO violation to be seven years of noncompliance.

A cable EEO violation, drawing a $500 fine, is applicable to a "single day." 47 U.S.C. §554(f)(2). Apparently, in setting a $500 fine for cable knowing that the base fine for broadcasting is $12,500, Congress meant the term "single day" for cable to refer to each calendar day of a continuing violation. Congress may be presumed to realize that cable systems, especially urban systems, typically employ far more individuals than a broadcast station employs. Thus, cable systems, unlike most broadcasters, must consciously reflect upon their EEO obligations daily.

It logically follows that a broadcast station "single EEO violation" should be defined as occurring on each day on which the broadcaster can be expected to have consciously applied -- or failed to apply -- its EEO program. In broadcasting, that level of consciously seldom obtains every calendar day.

The base forfeiture for a single broadcast EEO violation should be defined as "the absence of meaningful EEO efforts for a particular event of recruitment, hiring, promotion or termination."

This definition is entirely consistent with the practical operation of a broadcast EEO program. Generally, a broadcaster does not consult her EEO program every day. However, the EEO program is -- or ought to be -- consulted whenever a job vacancy, hire, promotion or termination arises. Connecting forfeitures to EEO-triggering events has the additional advantage of correlating the amount of the penalty with the extent of the harm visited on the public by the underlying EEO violations.

C. Failure to Assess Meaningful EEO Forfeitures

A $12,500 standard EEO sanctions is minor, and it is seldom issued with dispatch. Political broadcasting, obscenity and engineering infractions are adjudicated promptly after the violations occur, EEO enforcement typically must wait until renewal time -- five or seven years.

This enforcement anomaly is best illustrated by observing that most broadcast EEO forfeitures to date have been for about $5,000 to $15,000. Only two have been for $20,000, and none has been for more than that. Louisiana Renewals (KRMD-AM-FM), 7 FCC Rcd 1503 (1992); WTMA/WSSX, Charleston, SC, 4 FCC Rcd 7834 (1989).

Even a $20,000 forfeiture, issued where there has been a seven year period of continuous violations, is almost meaningless, amounting to $7.82 per day. Such a sum is a small fraction of the value of most broadcast stations. As a penalty for possible discrimination, or even for deliberate withholding of employment opportunities from minorities, such a sum is meaningless. It is far less than the social cost of such withheld opportunities. If only one minority person was victimized in each of a radio license term's seven years, those persons' foregone wages would be far more than $20,000. Add to that the value to society of these persons as potential influences on broadcast programming (see NAACP v. FPC, 425 U.S.at 670 n. 7) and it is crystal clear that the types of fines being issued are far too low. When a Commission licensee or franchisee has deprived minorities and women -- the majority of its labor pool -- of opportunities and access to gainful employment for seven years, a $7.82 per day fine is a cruel joke.

Recently, the Commission issued a NAL for a $600,000 fine in a "dirty words" case. Infinity Broadcasting Co., FCC 92-555 (decided December 18, 1992) ("Infinity"). A $20,000 maximum EEO sanction, compared with this $600,000 "dirty words" fine, sends the message that a licensee's actions to retard the careers of perhaps dozens of minorities are valued by the Commission at 1/30 as troubling as dirty words.19/

Congress clearly intended the Commission to increase the level of forfeitures. See NPRM at 4 ¶19 (discussing increase in CATV base forfeiture from $200 to $500, a 250% increase). The Commission should follow suit by increasing the base forfeiture for broadcast EEO violations 250%, from $12,500 to $32,500.

An increase in the relative priority of EEO violations would be a significant boon to enforcement. It would be as cost-efficient a step as the Commission could take to impress upon broadcasters the importance of being consciously active in fulfilling their equal employment responsibilities.

Broadcasters and cable systems theoretically are subject to the full $250,000 in forfeiture liability for egregious, repeated EEO violations. Occasionally, renewal applicants have argued that violations of the EEO rules occurring before Congress wrote the $250,000 forfeiture limit into §503 cannot be applied toward that

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19/ In determining the level of forfeitures, the Commission has built its cases around comparisons with similar cases -- often cases which are stale. See, eg., Muskegon Renewals, 7 FCC Rcd 6655, 6656 ¶12 (drawing comparison to two-year old findings). That practice fails to recognize that tolerance for EEO violations should contract over time. See Los Angeles Women's Coalition, supra.

limit because they lacked notice of the $250,000 limit when they allegedly violated the rule. The Commission should take the opportunity presented by the rulemaking proceeding to point out that every licensee has known since King's Garden, Inc. v. FCC, 498 F.2d 51 (D.C. Cir. 1972), that violations of the EEO rules can lead to loss of license. That is a more severe sanction than any forfeiture whenever the intangible right to broadcast is valued at more than $250,000. Broadcasters have always been on notice that they could pay this penalty if they violated the EEO rules.20/

One type of EEO violation -- intentional discrimination (see 47 CFR §73.2080(a)) does not belong on the forfeiture schedule at all. It is automatically disqualifying. See, eg., Black Broadcasting Coalition, supra; Catoctin, supra; cf. Office of Communication of the United Church of Christ v. FCC, 425 F.2d 543 (D.C. Cir. 1969) (intentional programming discrimination requires nonrenewal of license).

The Commission can never say often enough that discrimination absolutely disqualifies a Commission licensee or franchisee from continuing to be licensed. The Commission should use this opportunity to say it again.

D. Narrowness of Range of Sanctions

The range of sanctions available to the Commission is narrower than it should be, and some of those sanctions are essentially meaningless.

20/ See also Standards for Assessing Forfeitures (Order denying stay), 6 FCC Rcd 7016 n. 5 (1991) (providing examples of licensees "put...on notice that violations of the Commissions Act or Commission rules could be subject to substantial forefeitures" under the forfeiture limitations adopted by Congress in 1989 and included in Section 503(b) of the Act.)

In the NAACP's experience, an admonishment, as a litigation outcome, is universally viewed by the offending broadcaster as a complete vindication.

Conditional renewals are little more than a one-shot set of paperwork. The cost is written off on the licensee's taxes and the work is delegated to minor subordinates.

When licensees had to conduct ascertainment and file meaningful renewal applications, a short term renewal meant something. See, eg., Triple X Broadcasting Co, 51 FCC2d 585 (1975) (radio station had no Black employees for three years). Since program deregulation, a short term renewal means little more than preparing a new Form 396 and filing it with a postcard. Notwithstanding that sea change in the meaning of a renewal, the Commission never reevaluated the significance -- or insignificance -- of a short term renewal. See Bechtel, supra (agency must reevaluate past policies in light of changed circumstances).

Another sanction formerly used but since set aside for political and ideological reasons is goals and timetables. They were first used in Sonderling Broadcasting Corp., 68 FCC2d 752 (1977) and last used in Arkansas TV Co., 46 RR2d 883 (1979). They never should have been eliminated as a regulatory tool, and they should be reinstituted now.

Yet another tool which has not been used in 18 years is job structure analyses. They are commonly used in EEO jurisprudence -- except at the FCC -- whenever there is evidence that members of a protected group are being shunted into one type of position to the exclusion of others. This commonly happens to women, who seldom

have an opportunity to rise beyond the glass ceiling level ofsecretary or administrative assistant. It also commonly happens to minorities, who are historically excluded from sales or management positions at many stations. At some AM/FM stations in which one of the stations is minority formatted, minorities may be denied opportunities to work at the nonminority formatted station -- an EEO violation which is easily masked by virtue of the licensee's ability to combine AM and FM employment on Form 395. The last time the Commission required a job structure analysis to resolve discriminatory job assignment allegations was in Independence, supra, 53 FCC2d at 1166, a case in which an AM/FM combination whose AM side was Black-formatted was found to have offered no opportunities to Blacks to work on the rock-formatted FM side.

Yet another enforcement tool the Commission might find attractive is an EEO demerit in a comparative hearing. Before the initiation of all-or-nothing character determinations in comparative proceedings, the Commission awarded a demerit in Town and Country Radio, 41 RR2d 1177, 1180 (Rev. Bd. 1977), based on deficient EEO records at several broadcast stations controlled by the comparative hearing applicant's major stockholder. That approach is still appropriate where EEO violations are found to be serious but not intentional, so that they do not implicate the applicant's character. Such a policy could be applied to any comparative case in which a licensee or franchisee principal, or a senior manager responsible for EEO compliance, is a party to a comparative applicant.

Finally, the Commission has given little thought to awarding performance incentives to those exceptional licensees or franchisees who have, over a long period of time, established themselves as pro-active, truly outstanding EEO performers. Such an incentive was afforded once, in Turner Communications Corp., 47 RR2d 513 (1980), which lifted a short term renewal and thus permitted the assignment of license to an outstanding EEO performer. In Infinity, supra, the Commission recently sent a signal that it might award similar incentives in special cases; it did so in Infinity by allowing an especially well run and minority owned assignor to complete the sale of its stations to an assignee whose stations had been the subject of a NAL for $600,000 in indecency violations. Because incentives are a powerful compliance-stimulating tool, the Commission should give some thought to developing an EEO incentive program.

One example of a positive incentive program would be the creation of a forfeiture reduction option which accounts for a licensee's or franchisee's subsequent pro-active EEO enforcement activities. A licensee or franchisee accused of EEO violations could create an internship program, using its own staff to train minorities in broadcasting. It could award scholarships to the most promising interns, with an opportunity for future employment after graduation. If the program's value -- in staff time, intern compensation and scholarship compensation -- equals the amount of the initially proposed forfeiture, it would not be unreasonable for the Commission to forgive the full amount. The incentive thereby

created for enhanced post-forfeiture affirmative action would go a long way toward fulfilling the diversification-promoting purpose of the EEO rules through the voluntary action of committed licensees or franchisees. See Nondiscrimination in Broadcasting, supra.

Mitigation of forfeitures through community service would provide greater specific and general deterrence, with less dollar outlay by a licensee or franchisee, than would a lump sum cash payment to the Treasury. In many cases, this approach would allow the Commission greater flexibility to work with its licensees and franchisees and the public to tailor remedies to the wrongdoing. Such an approach would bring the Commission into the fold of law enforcement bodies which routinely consider community service and victim compensation as factors in establishing and administering penalties.

In developing these incentive programs, the Commission may take its cues from its minority ownership policies. The Commission has chosen to promote minority ownership through a regulatory system which rewards licensees or franchisees for investing in or selling to minority applicants through the tax certificate policy. See Statement of Policy on Minority Ownership of Broadcast Facilities, 68 FCC2d 979, 983 (1978). Perhaps the Commission should supplement its EEO regulatory regime with initiatives which reward licensees and franchisees for their superior EEO performance -- for example, by considering such performance as part of a renewal expectancy in the context of comparative renewals, or as a factor in the multiple ownership rules.

VIII. FAILURE TO PUBLICIZE TRENDS AND RULINGS

Although the Commission compiles industrywide EEO trend reports, it has done nothing to publicly tell the industry that it considers EEO violations to be matters of grave public concern. Not once in the past 20 years has the Commission held a press conference to announce the results of its annual trend reports. Not once has it issued an analysis of whether its EEO policies are working.

The speeches of Commission chairpersons and commissioners to industry groups have seldom, if ever, mentioned EEO compliance. Press releases announcing EEO forfeitures have seldom stated what misconduct led to the forfeitures, thereby foregoing an opportunity to inform the public, broadcasters and cablecasters of specific practices found to be illegal and defenses held to be without merit. Almost no publicity ever attends cable EEO violations, and there appear to be no plans to publicize those failing midterm EEO certifications. Even when it designates EEO cases for hearing, the Commission holds no press conference.

In other words, the Commission has acted just the opposite of the way any well motivated prosecutor would act. The EEO staff, although well intentioned, experienced and capable, has appeared to be demoralized and adrift, perhaps biding time until an EEO-sensitive administration takes over.

IX. CONCLUSION

The fact that the 1981-1992 Commission so frequently saluted itself for its EEO enforcement efforts only shows the former Commission's relative insensitivity to minority needs in other areas. See pp. 11-12 supra.

Any independent photograph by civil rights professionals of the FCC's EEO enforcement effort would reveal that the agency has treaded water for twelve years. Perhaps this was necessary for ideological reasons: Chairman Fowler once declared that EEO processing guidelines "smack of quotas, pure and simple" and argued for their elimination. Broadcasting, February 18, 1985, at 39, 42. See, however, Opinion of the General Counsel/EEO Rules, 44 RR2d 907, 909 (Gen. Counsel 1978) (EEO processing guidelines are not quotas).

Thankfully, those days are gone now. It is time for FCC EEO enforcement to at least return to the pre-1981 period when it was viewed in the industry as serious.

The NAACP appreciates that the Commission is operating under an April deadline to produce EEO rules which minimally comply with the Cable Act. That should be the starting point, not the ending point, of a top to bottom review broadcast and cable EEO enforcement. The Commission should (1) issue a Further NPRM; (2) hold en banc public hearings; and (3) issue new EEO enforcement policies posthaste.[21/]

21/ Lansar, Champaign, WLVU, Columbus, Malrite and Fiddick, each discussed herein, are in various stages of investigation, reconsideration or appeal. Counsel for those applicants opposing the NAACP in these matters (or the licensee, if without counsel) have each been sent copies of these Comments.

Respectfully submitted,

Everald Thompson III

Dennis Courtland Hayes
General Counsel
Everald Thompson
Assistant General Counsel
NAACP
4805 Mt. Hope Drive
Baltimore, Maryland 21215
(301) 486-9193

David Honig
1800 N.W. 187th Street
Miami, Florida 33056
(305) 628-3600

Counsel for NAACP

February 17, 1993 22/

22/ Yesterday, February 16, 1993, the due date for these Comments, the NAACP filed a request for a one day extension of time, owing to the unavailability of the Director of its Washington Bureau who was called to Guantanamo to visit Haitian refugees. He has now approved the filing.

CERTIFICATE OF SERVICE

I, David Honig, hereby certify that I have this 17th day of February, 1993 caused a copy of these "Comments" to be delivered by U.S. First Class Mail, postage prepaid, to the following:

Glenn Wolfe, Chief
FCC MMB EEO Branch
2025 M Street N.W., 7th floor
Washington, D.C. 20554

Erwin Krasnow, Esq.
Verner Liipfert et al.
901 15th St. N.W.
Washington, D.C. 20005

WMAX, Inc.
4 Estanolle Dr.
Greenville, SC 29615

David Oxenford, Esq.
Fisher Wayland Cooper & Leader
1255 23rd St. N.W.
Washington, D.C. 20037

David Silverman, Esq.
Cole Raywid & Braverman
1919 Pennsylvania Ave. N.W.
Washington, D.C. 20006

Lawrence Bernard, Esq.
1300 19th St. N.W. #240
Washington, D.C. 20036

Dennis Begley, Esq.
Reddy Begley & Martin
2033 M Street N.W.
Washington, D.C. 20036

James Riley, Esq.
Fletcher Heald & Hildreth
1300 N. 17th Street
Rosslyn, VA 22209

Jerrold Miller, Esq.
Miller & Miller
1990 M Street N.W.
Washington, D.C. 20036

Jason Shrinsky, Esq.
Kaye Scholer et al.
901 15th St. N.W.
Washington, D.C. 20005

Tom Davidson, Esq.
Akin Gump et al.
1333 New Hampshire Ave. N.W.
Washington, D.C. 20036

David Honig